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SUMMARY RECORD OF THE 1332nd MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 12 July 1994, at 3 p.m.

Chairman: Mr. ANDO

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The meeting was called to order at 3.10 p.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (agenda item 8) (continued)

Initial report of Azerbaijan (HRI/CORE/1/Add.41/Rev.1 - CCPR/C/81/Add.2)

1. At the invitation of the Chairman, Mr. Gadjiyev, Mrs. Eivazova, Mr. Chalakov and Mr. Zaver (Azerbaijani Republic) took seats at the Committee table.

2. Mr. GADJIYEV (Azerbaijan), introducing the initial report of the State party (CCPR/C/81/Add.2), recalled that, 70 years after losing its independence, the Azerbaijani Republic had regained it on 30 August 1991, when the Supreme Soviet of the Azerbaijani Republic had adopted the Declaration on the Re-establishment of the State Independence of the Azerbaijani Republic. The people of Azerbaijan formed an independent, secular, democratic, unitary State, whose sovereign power in internal affairs was limited only by law and in external affairs by the provisions of treaties and agreements to which the people of Azerbaijan had freely expressed their consent. The power structure in Azerbaijan was described in paragraph 13 of the core document (HRI/CORE/1/Add.41/Rev.1). He recalled the wording of article 19 of the Constitutional Act which was reproduced in paragraph 15 of that document.

3. The Constitution guaranteed many rights and freedoms to the citizens of the Republic, inter alia, the rights to work, to health, to the protection of motherhood, to housing and education, to freedom of expression, to freedom of association and peaceful assembly and the right to form parties and associations; the Constitution also guaranteed freedom of conscience and religion, the inviolability of the person, of the home, of privacy, the right to non-interference with telephone conversations and telegraphic communications, etc. All those rights could be invoked before the courts. In addition to the Constitution, other texts guaranteed respect for the above-mentioned rights, particularly the Codes of Criminal and Civil Procedure and the Labour, Family and Civil Service Codes. A number of laws had been amended, and Parliament had recognized the need to amend legislation so as to bring it into line with the provisions of the international instruments to which the Azerbaijani Republic had acceded. Generally speaking, all the legislative measures taken were intended to create a more open society and were based on the principle that democracy was essential to a nation's life.

4. The authorities were intent on ensuring respect for the special characteristics of national minorities and ethnic groups and considered that it was necessary to provide for the free development of such communities, while guaranteeing respect for their political, economic, social, cultural and linguistic rights; the law contained specific provisions in that regard.

5. The Constitution guaranteed equality between men and women, and he described the situation as it was set out in paragraphs 15 to 18 of the initial report (CCPR/C/81/Add.2). He added that without the consent of his wife a man could not institute divorce proceedings during his wife's pregnancy or within one year after the birth of a child.

6. A state of emergency act had been adopted early in 1992. He described the policy of the Azerbaijani authorities as referred to, in paragraph 21 of the report (CCPR/C/81/Add.2) and said that states of emergency had already been proclaimed in the Azerbaijani Republic. On each occasion, the authorities had informed the Secretary-General of the United Nations. In those sectors where the state of emergency had been established, justice could be administered only by the courts. The creation of emergency courts was forbidden, as was recourse to summary or emergency procedures.

7. With reference to the judicial system, he said that the activities of the courts were based on strict compliance with the principles adopted by the United Nations concerning the independence of the judiciary. The Supreme Court operated on a collegiate basis and was competent in civil and military cases. A court of arbitration dealt with economic offences. The military courts dealt exclusively with offences committed by members of the armed forces. The Status of Magistrates Act provided for the creation of a professional association which would concern itself with questions relating to the training and appointment of magistrates. Parliament had rejected a bill whereby magistrates would have been appointed for life, and had maintained the existing provisions, which provided for a 10-year mandate. The amendments made to the Code of Criminal Procedure provided for the principle of habeas corpus. The Public Prosecutor must be informed within 24 hours of a suspect's being taken into police custody. In the 48 hours following notification of a person's being held in police custody, the Public Prosecutor must issue an arrest warrant or order the suspect to be released. If the charge was confirmed, the person concerned could appeal the decision.

8. The efforts to reform the judicial system were aimed at guaranteeing full respect for human rights and ensuring that citizens were not the victims of arbitrary acts. Despite the many difficulties confronting Azerbaijan, like the other post-totalitarian States which were in a period of transition, the courts were currently in a position to administer justice correctly and with complete independence. Efforts were being made to make the provisions of criminal law more flexible. The number of capital offences had been reduced, and the death penalty was imposed only in exceptional circumstances, in principle in cases of the homicide of one or more persons. The abolition of the death penalty was currently being envisaged, and opinion seemed to favour accession to the Second Optional Protocol to the Covenant.

9. The difficulties facing the new State of Azerbaijan were not, however, only domestic. For more than six years, the neighbouring Republic of Armenia had been conducting a policy to undermine the national unity of Azerbaijan. The so-called "Nagorny Karabakh" conflict should be renamed, since the Armenians currently occupied seven regions of Azerbaijan which had nothing to do with the plateau in question. The Armenian armed forces, with the help of foreign mercenaries and the support of certain States, were occupying 20 per cent of Azerbaijani territory. They followed a scorched-earth policy, taking Azerbaijanis prisoner or killing them solely on account of their nationality. The Azerbaijani Republic currently had 1 million refugees, living in uncertain conditions. Generally speaking, the aggression by the Republic of Armenia was a flagrant violation of international law.

10. The authorities of the Azerbaijani Republic respected the right of peoples to self-determination and on various occasions had declared that they guaranteed security and the exercise of their rights and freedoms to all ethnic groups and all nationalities in their territory, including the Armenians. The Armenian minority of Nagorny Karabakh enjoyed all the rights accorded to the national minorities in Azerbaijan, in accordance with international standards, and was required to respect the sovereignty, territorial integrity and laws of the Azerbaijani Republic. That declaration could in no way be interpreted as encouraging or sanctioning activities which might be harmful to the territorial integrity and the political unity of the Republic. The Azerbaijani authorities hoped that the United Nations and other international organizations, particularly OSCE, would do everything in their power to protect the civil and political rights of the citizens of the Azerbaijani Republic. They welcomed the establishment of an international tribunal for crimes against humanity and hoped that it would be in a position to bring proceedings against those responsible for their country's tragedy.

11. He concluded by saying that, although the road to an open and democratic society was strewn with obstacles, the will of the Azerbaijani people, which had chosen that route, was unshakable. He believed that the Azerbaijani Republic, with the aid of the international organizations, and particularly of the Human Rights Committee, would succeed in bringing about the full development of its society, in creating the conditions for realizing human rights and fundamental freedoms and in constructing a truly democratic State.

12. The CHAIRMAN thanked the delegation of Azerbaijan and invited it to reply to the Committee's oral questions.

13. Mr. DIMITRIJEVIC began by saying that the situation as described in the initial report of Azerbaijan (CCPR/C/81/Add.2) had particularly held the attention of the members of the Committee because it was extremely disturbing for several reasons and because at the same time it could be compared in many respects with the situation in other countries; the success or failure of its authorities in realizing human rights would constitute a kind of symbol for many countries. The independence Azerbaijan had achieved just after the First World War had given rise to great hopes and for many people it had been, with its great cultural tradition, a centre of secular renewal within Muslim society, to the point of being compared with the Turkey of Atatürk. Unfortunately, the RSFSR had put an end to that independence in 1920, and Azerbaijan currently found itself in a situation similar to that obtaining in other regions of the world, including his own, where the tragic cycle of violence and reprisals seriously impaired the exercise of human rights. Both perusal of the initial report (CCPR/C/81/Add.2) and, more generally, the situation in Nagorny Karabakh unfortunately gave him a gloomy feeling of "déjà vu". He drew the attention of the Azerbaijani delegation to the fact that the confrontation of different forms of nationalism often led to the establishment of structures modelled on those of the regime society was trying to reject and it was not uncommon to see the same ideology, the same officials, the same secret police, etc. re-emerge. He was aware that the tragic conflict in Azerbaijan was partly a result of the policy followed by the Soviet authorities in the region. However, that could not justify the

human rights violations currently taking place in Azerbaijan, and generally speaking, it should be borne in mind that a society was always stronger when it was democratic.

14. In view of the above, he would have liked the report to describe in more detail the factors and difficulties affecting the implementation of the provisions of the Covenant. The authorities explained those difficulties by the conflict with Armenia, but there were clearly other reasons. Given the history of Azerbaijan and the ongoing conflict, the national authorities could not be expected to have resolved all the problems inherited from a system which, in many respects, ran counter to modern human rights standards. However, the report should have put more emphasis on the specific difficulties, by describing the situation in practice and indicating the measures taken by the authorities. A number of questions had been left without an answer, particularly where legislation was concerned; he asked whether all the laws mentioned in the report had been adopted after 1991. It seemed that some laws dating from the Soviet period were still in force, but had been amended. He would like details. According to information from non-governmental organizations and some United Nations bodies, the situation in respect of many human rights was not satisfactory in Azerbaijan. In particular, it seemed that the death penalty still existed for certain State crimes. He would like to know precisely which crimes carried the death penalty and under what circumstances it had been handed down and executed.

15. The safety of human life did not seem to be guaranteed as it should be in Azerbaijan. In particular, the lives of Armenians who were citizens of the Azerbaijani Republic did not seem to be adequately protected. Numerous reports recorded the taking of Armenian hostages by the police forces with the intention of exchanging them for ethnic Azerbaijanis. In view of the serious nature of such a practice, he would like to know what steps the authorities had taken to put an end to it.

16. With reference to article 7 of the Covenant, it seemed that torture was practised in Azerbaijan, and that even ethnic Azerbaijanis were subjected to it. According to reports which had not so far been denied by the national authorities, cases of torture and ill-treatment had occurred in the prisons.

17. Respect for the other rights guaranteed by the Covenant seemed to be a source of difficulties in Azerbaijan. The Penal Code, in particular, made no provision for the principle of presumption of innocence, the press was subject to de facto censorship (attempts had allegedly been made to make that practice official), while freedom of movement seemed to be subject to certain restrictions; for instance, the members of certain ethnic groups apparently could not obtain documents allowing them to travel freely.

18. Mr. HERNDL recalled that Azerbaijan was on the point of becoming a full member of the community of nations and that it must forge its own identity based on respect for human rights. Although its legal system did not conform completely to its international human rights obligations, it was to be hoped that the Committee's recommendations would be followed when it came to creating the legislative infrastructure to implement the provisions of the

Covenant. All the members of the Committee were aware of the special situation of Azerbaijan, which was currently involved in armed conflict. It was to be hoped that that problem could be solved in the near future.

19. He was disappointed that the report did not give precise instances of the implementation of human rights in Azerbaijan. Hopefully, the Committee's guidelines on the presentation of reports would be followed in the future.

20. Referring to paragraph 4 of the report (CCPR/C/81/Add.2), he did not understand how it could be asserted that the right of self-determination should be reserved exclusively for former colonies, when according to article 1 of the Covenant, all peoples had the right of self-determination.

21. With regard to those paragraphs of the report (CCPR/C/81/Add.2) concerning article 2 of the Covenant, he noted that Azerbaijan had chosen to accede to the Covenant. He asked whether a declaration of succession had been envisaged. Paragraph 9 of the report (CCPR/C/81/Add.2) stated that in Azerbaijan international agreements took precedence over the law. He recalled that the status of the Covenant in international law had been clearly defined and that its place in the national law of States parties must be made clear, as it must be fully integrated into national law.

22. It emerged from the report (CCPR/C/81/Add.2) that the death penalty could be handed down only in special cases, such as crimes against the State. It would be useful if the delegation could specify what crimes carried the death penalty.

23. The wording of paragraph 101 of the report (CCPR/C/81/Add.2) did not seem to conform to the provisions of article 18 of the Covenant.

24. Paragraph 110 stated that the Constitution guaranteed freedom of assembly but meetings apparently had to be approved by certain executive authorities which considered the application and gave their reply five days before the planned date at latest. Nothing was said about the possibility of a refusal by the authorities. He would like to have details of the regulations on the right of assembly and the restrictions on that right.

25. He would also like to know whether the Act of the former USSR concerning trade unions was still in force. He considered that the Public Associations Act of the Azerbaijani Republic, dated 10 November 1991, was not compatible with the provisions of article 27 of the Covenant.

26. Where minorities were concerned, he noted a contradiction between paragraph 7 of the core document (HRI/CORE/1/Add.41/Rev.1) and paragraph 147 of the report (CCPR/C/81/Add.2) concerning the importance of ethnic groups. He hoped, moreover, that the decree of the President of the Azerbaijani Republic concerning "the protection of rights and freedoms and State support for the development of the language and culture of national minorities and of peoples and ethnic groups few in numbers living in the Azerbaijani Republic" (see para. 146 of the initial report), dated 16 September 1992, would be replaced by a series of standards defining the status of minorities in accordance with article 27 of the Covenant.

27. Mrs. CHANET noted that the report (CCPR/C/81/Add.2) showed an excellent knowledge of the Covenant and an obvious concern to show how Azerbaijani law conformed to its provisions. However, it gave no hint of the burden constituted by the legacy of the former USSR or of the obstacles inherent in the armed conflict in which Azerbaijan was involved.

28. She endorsed Mr. Herndl's comments on the subject of self-determination and the questions he had raised about the implementation of the provisions of article 27 of the Covenant.

29. With reference to the information provided by the report (CCPR/C/81/Add.2) on the implementation of the provisions of article 6 of the Covenant, she considered it indispensable, in view of the wording of article 6 and the Committee's general comments on that article, that the Committee should have access to a comprehensive list of offences carrying the death penalty. She expressed the hope that the delegation would indicate the cases in which the death penalty had been handed down, specifying the crime and the number of death sentences carried out in recent years. She recalled that Mr. Ndiaye, as Special Rapporteur of the Commission on Human Rights on summary and extrajudicial executions, had received information to the effect that the Azerbaijani armed forces had allegedly executed a number of Armenian civilians, after the conclusion of the hostilities. When asked about the case, the Azerbaijani Government had replied that Armenian soldiers had done the same to the Azerbaijani population. She considered that the Committee could not be satisfied with a reply of that nature and would like some explanation.

30. Instances of torture had also been denounced by Amnesty International, which reported that in 1993 some leading figures in the previous Government, in particular the former President of the Parliament, the former Attorney-General, the former Minister of the Interior and the former Vice-Minister for Security, together with a journalist, had been subjected to ill-treatment. She would like clarification. She also wished to associate herself with the questions concerning the hostages. Noting that the report (CCPR/C/81/Add.2) recorded the existence of a number of penitentiary labour colonies, she asked what were the offences for which sentences involving internment in such colonies were handed down. She reminded members that article 10 of the Covenant laid down that social rehabilitation was an essential aim of any sentence, and commented that the idea of social rehabilitation was not synonymous with ideological correction but with rehabilitation in a democratic society.

31. Article 11 of the Covenant completely forbade imprisonment for debt. However, it emerged from the report (CCPR/C/81/Add.2) that, in Azerbaijan, persons who deliberately refused to pay their debts were liable to be imprisoned.

32. She said that she shared Mr. Dimitrijevic's concerns about the implementation of the provisions of article 12 of the Covenant. Paragraph 62 of the report (CCPR/C/81/Add.2) stated that the applicable act on freedom of movement was that of the former USSR, dated 10 May 1991. Although it was a step towards liberalization, the act still contained a number of restrictions which did not seem to be compatible with the provisions of article 12 of the

Covenant. The very numerous and particularly ill-defined cases in which the issue of a passport could be refused seemed to be obstacles to the realization of the rights guaranteed by that article.

33. With reference to information concerning the implementation of article 14 of the Covenant, she noted that the notion of State secret had been evoked once again, and wondered whether it was the same notion as was referred to in the act on departure from the Azerbaijani Republic. She also wished to know what was meant by "Community Prosecutor" (see para. 76 of the report).

34. With reference to the implementation of article 22, she noted that in order to found a political party, application for authorization had to be made to the Ministry of Justice, which could refuse to register an association or a party the purpose of which was the commission of acts subject to a criminal penalty. She wondered whether the aim of changing the Government was a criminal offence. If so, political pluralism could not be established.

35. Mr. MAVROMMATIS said that he had only just received the revised version of the core document of Azerbaijan (HRI/CORE/1/Add.41/Rev.1). He said that revised versions should be transmitted sufficiently in advance so that they could be studied before the report was considered by the Committee.

36. With reference to the report of Azerbaijan (CCPR/C/81/Add.2), he considered that the information missing was more important than the information provided. He would like to know what specific measures had been taken to implement the provisions of the Covenant. He pointed out that the Committee was aware of the dramatic situation in Azerbaijan and that its report completely failed to give any account of the problems confronting the country.

37. Noting that paragraph 6 of the report (CCPR/C/81/Add.2) mentioned the Final Act of the Helsinki Conference and the Universal Declaration of Human Rights, he pointed out that neither of those instruments was legally binding, and wondered why no reference was made to the Covenant. He would like the delegation to list the changes which had occurred since independence and the measures taken in recent years to promote democracy.

38. Where the death penalty was concerned, it seemed that Azerbaijan applied the same regime as the former USSR. He would like some clarification on the subject of death sentences directly linked to the conflict with Armenia.

39. He asked what the situation was with regard to the promotion and protection of the independence of the judiciary (art. 14).

40. He also considered that it would be useful if the Azerbaijani delegation could clarify the contents of paragraph 61 of the report (CCPR/C/81/Add.2) (art. 11).

41. He further wondered, with reference to the implementation of article 14, why the country intended to keep the system of people's assessors and how their independence was guaranteed. He also wondered about the legal

assistance provided for in Azerbaijani law and would like further information about the Constitution and the date on which it had come into force, whether it was permanent and how it had been adopted.

42. With reference to the implementation of article 18, he mentioned some omissions in the report (CCPR/C/81/Add.2).

43. Lastly, the delegation should provide detailed information on the measures taken to protect the several thousands of Armenians in the areas controlled by the Azerbaijani Government.

44. Mrs. EVATT said that the report (CCPR/C/81/Add.2) did not give a very clear picture of the situation of human rights in the Azerbaijani Republic, or of obstacles to the implementation of those rights. She recalled that the Committee was informed about the conflict with Armenia and the domestic problems which impeded the setting up of institutions and hindered respect for human rights. Several non-governmental organizations had mentioned cases of human rights violations and the Committee was interested in how those allegations would be handled by the State party.

45. She said that the persecution of the Armenians in Azerbaijan was a matter of particular concern, and she wished to associate herself with the statements made by earlier speakers on the subject of hostages.

46. She would like the delegation to describe what measures the Government of the Azerbaijani Republic had taken to publicize the Covenant and the report (CCPR/C/81/Add.2) submitted to the Committee. She wished to know whether there were NGOs working in the sphere of human rights which were based in Azerbaijan, whether they had been consulted regarding the preparation of the report and whether they had been involved in it.

47. She shared the views expressed by the Committee in the section of the report (CCPR/C/81/Add.2) concerning self-determination. She recalled that the Covenant was very clear on that subject.

48. With reference to appeals for pardon in the event of a death sentence (art. 6), it had been stated that that right could not be involved if the sentence had been handed down by a military court. Mention had been made of cases of death sentences handed down by the Supreme Court with no possibility of appeal. She wished to know what the situation was in that regard.

49. She shared the concerns of the other members of the Committee with regard to hostages and the allegations of ill-treatment, and endorsed the questions on the subject of article 7. The Committee had information that some members of the AFP, the former party in power, had been detained since September 1993; she would like information on the matter. The Special Rapporteur of the Commission on Human Rights had said that the Azerbaijani Government had shown very little cooperation in that respect.

50. She wondered about the notion of State secret mentioned in the paragraphs of the report (CCPR/C/81/Add.2) concerning the implementation of articles 14 and 19 of the Covenant. Moreover, paragraph 78 of the report did not state clearly whether the defendant could introduce evidence and summon and question

witnesses. That was a right unequivocally guaranteed by the Covenant. The report (CCPR/C/81/Add.2) was equally unclear on the question of presumption of innocence. She noted that the President of the Supreme Court had been dismissed in July 1993 and she wished to know what laws and procedures had been invoked for the purpose and what possibilities of recourse were available. She also wished to have some clarification concerning the nomination of election candidates, the role of the pre-electoral assembly, conditions for being a candidate and for voting, the operation of the candidates' fund for expenses, the right of citizens to propose subjects for referendums and the laws which had already been the subject of a referendum.

51. Mr. BRUNI CELLI welcomed Azerbaijan's recovery of its independence after many long years. However, independence was not a value in itself but should serve to protect the inhabitants of the territory. With its freedom, the State took on new responsibilities, including the protection of human rights. In Azerbaijan, it was regrettable that independence should have been accompanied by a serious domestic conflict which impeded the exercise of human rights in a very alarming fashion; various reports recorded all kinds of abuses which had been mentioned neither in the written report nor in the verbal presentation by the State party.

52. The initial report gave a good idea of the legal framework which existed in Azerbaijan but there was a lack of specific information and in the future the State party could usefully take into account the Committee's general comments. It would also be of interest to mention the difficulties encountered in implementing the Covenant and to specify its place in domestic law.

53. Going on to consideration of the report proper, he pointed out that paragraph 9 stated that "most of the rights set forth in the Covenant are embodied in the national legislation," which obviously led to the question of which rights had not been embodied. Immediately after, the paragraph stated that international conventions "take precedence over the law," and in the third sentence of the same paragraph, that all bodies were invited to take steps to bring the laws into conformity with those instruments; all of that information seemed to be contradictory and to call for explanations.

54. Lastly, he would like information on the publicity given to the report in the country and the means employed to bring it to all sectors of society, non-governmental organizations and the inhabitants of Azerbaijan.

55. Mr. SADI said that the report of the Azerbaijani Government, which was its initial report, was a good starting-point for the dialogue between the Committee and a new State, which had inherited a heavy burden of liabilities. The fact that the report had been submitted within a very reasonable deadline promised well for the future and testified to the willingness of the State party to perform its obligations. The next report could, however, usefully contain information on the actual situation and not restrict itself to describing laws. It was undeniable that the country was grappling with considerable difficulties, not least of which was the Nagorny Karabakh conflict. The situation of the minorities was at the heart of the concerns of

all members of the Committee. For the future, the State party could take cognizance of the Committee's general comment concerning article 27 of the Covenant on the rights of minorities.

56. Where the situation in the country was concerned, the hostage-taking must be particularly deplored; it was a practice which caused great concern and could not be justified on the grounds that the other party used the same methods.

57. The right to leave the country continued to be unduly restricted, for reasons which seemed to have been inherited from the former regime. A similar situation obtained with the use of in camera proceedings and he would like to know whether it was left over from the past.

58. With reference to article 18 of the Covenant, it was surprising to read in paragraph 101 of the report that the exercise of the freedom of religion could be restricted only by considerations of State security; such a statement called for clarification.

59. It was to be hoped that the democratic institutions which would be established would guarantee the rights of everyone; it would be of interest to know what stage had been reached in establishing or consolidating such institutions.

60. Mr. POCAR associated himself with the other members of the Committee who had commented on the high level of the Azerbaijani delegation, which was proof of the seriousness the new Azerbaijani Republic brought to its dialogue with the Committee. As an initial report, the report was, if not complete, at least acceptable; it had been submitted within a fairly reasonable deadline, and the Government had followed the Committee's guidelines in submitting the core document (HRI/CORE/1/Add.41/Rev.1) at the same time.

61. It would be necessary to undertake a more complete revision of legislation, but it was clear that a country which had just become independent would naturally find itself with a considerable number of old laws, the defects of which were sometimes perpetuated for lack of a sufficiently comprehensive process of renewal.

62. Paragraph 4 of the report (CCPR/C/81/Add.2), concerning the right of self-determination, puzzled him, and his perplexity was increased on reading paragraph 147 on the rights of minorities. A clear definition was necessary of what the Azerbaijani Government understood by "minorities" and by "groups few in numbers". If the persons living in the territory of the Republic constituted "peoples", they had the right of self-determination, although that was not the case if they were minorities.

63. With reference to article 4 of the Covenant, the report dealt at length with the State of Emergency Act of 4 February 1992, under which a state of emergency had been proclaimed for several months in 1993. It should be stressed that the Government had duly notified the Secretary-General of the proclamation and prolongation of that measure, as article 4 required. However, the notification contained a long list of measures which it was possible to take under the state of emergency without specifying the grounds

for them. It seemed that no provision of the 1992 Act obliged the Executive to set out in detail the conditions which could provide grounds for derogating from the laws in force. The concern caused was all the greater in that the decree proclaiming the state of emergency left it to the discretion of the local military and other authorities to adopt the measures they wished. There was therefore a need to know what derogations there had been from articles of the Covenant during the last state of emergency.

64. Where article 11 of the Covenant was concerned, it seemed from paragraph 59 of the report that imprisonment on the grounds of failure to fulfil a contractual obligation was not possible in Azerbaijan, unless such a failure was deliberate. If that was the case, he would welcome details.

65. Referring to article 12 of the Covenant, he had noted in paragraph 62 that "citizens of the Azerbaijani Republic shall exercise their right to leave Azerbaijan and to enter Azerbaijan using passports for foreign travel". If that meant that an Azerbaijani citizen needed a passport to enter Azerbaijan, the provision was contrary to the Covenant.

66. The implementation of article 14 of the Covenant was a matter for concern and the information given did not make clear how the judicial system worked. Paragraph 19 of the core document (HRI/CORE/1/Add.41/Rev.1) listed the various judicial bodies, but without giving any clear indication of the relationships between them. It was not clear which were the courts of first instance. Moreover, the Supreme Court, a court of second instance, seemed also to have jurisdiction to hear certain cases in first instance, particularly offences carrying the death penalty; the Committee had been informed of the case of five Armenians sentenced to death in March 1992 by the Supreme Court, acting as a court of first instance, and of five other persons - Russians - sentenced to death in May 1993 and subsequently exchanged for prisoners. That power of the Supreme Court constituted not only a violation of article 14.5 of the Covenant which guaranteed the right of appeal, but also a violation of article 6, concerning the right to life, since in cases where capital punishment had not been abolished, it should only be used in absolutely strict observance of judicial guarantees.

67. The Azerbaijani delegation must have noticed that members of the Committee had mentioned events occurring before the Government declared its accession to the Covenant. Where the question of State succession was concerned, the Committee's position was that any sovereign successor State was bound by the obligations of the Covenant from the day of its independence, a position shared by the Commission on Human Rights which, in resolution 1994/16 of 25 February 1994, had requested the Secretary-General to encourage successor States to confirm their obligations under the international human rights treaties to which their predecessors were a party, as from the date of their independence. Where the submission of initial reports was concerned, the Committee could accept that the obligation came into force as from the date of accession, but the date of independence should continue to be the starting point for all the other obligations.

68. Mr. BÁN said that the initial report of Azerbaijan provided a good basis for the current dialogue and for dialogue in the future. Although the delegation might sometimes have the impression that members' questions were

abrupt, it should not regard that as the expression of any sort of hostility but rather as evidence of the Committee's interest in a State which it needed to know better.

69. With reference to the territorial implementation of the Covenant, he did not understand the situation fully. He wondered whether the Covenant could be implemented throughout Azerbaijani territory, since some parts of the territory did not come under the control of the Government.

70. Since the new State had inherited the legal system of the former Soviet Union, it would be useful to know on what criteria the decision to implement or not to implement a particular text of the old legislation was based. He asked whether the decision was taken on a case-by-case basis or whether the former law was automatically applied if it had not been repealed.

71. He also wondered what procedure was followed in Azerbaijan to incorporate international instruments in domestic law and what measures were taken in the event of opposition between the domestic constitutional system and international law. He would also like to know how the population was informed of the rights embodied in the Covenant. He asked about the situation with regard to citizenship, not only in the legal texts but also in practice. He understood that under former Soviet law a distinction had been made between Soviet citizenship and citizenship of the member States of the Soviet Union. He would like to know, therefore, what citizenship had been assigned to the inhabitants of Azerbaijan, whether they had been given a choice and whether certain population groups had been refused the right of citizenship.

72. He noted that, according to paragraph 3 of the initial report, the most important right, for the Azerbaijani Republic, was the right of self-determination. That made him wonder if such a statement meant that an order of priority had been established between the various rights set out in the Covenant. With reference to the implementation of article 3 of the Covenant, he understood that the law in fact sanctioned equality of rights between men and women, but he asked the Azerbaijani delegation to provide statistics on the actual situation in the country; how did women participate in public life and what were their rights, for example vis-à-vis children? Lastly, he asked for information on how magistrates were appointed or elected and the institutional provisions which guaranteed their independence.

73. Mr. PRADO VALLEJO noted with satisfaction that the new State of Azerbaijan had undertaken to respect the rights embodied in the Covenant and to initiate a constructive dialogue with the Committee. The establishment of a new democracy was of course difficult, but it emerged clearly from the initial report that the Azerbaijani Republic had made remarkable efforts to modify the repressive legislation which had been applied under the former Soviet regime.

74. He noted that there did not seem to be any possibility of appeal against a death sentence in Azerbaijani law. If that was the case, it would be contrary to the provisions of article 14, paragraph 5 of the Covenant and he asked whether the law might possibly be amended in that respect. The Committee had also been informed of abuses committed by the police and the forces of law and order, despite legislation prohibiting such behaviour; the

Azerbaijani delegation might describe the measures envisaged to prevent such abuses being committed in the future. The delegation might also inform the Committee of measures envisaged to guarantee the right to information and the right of journalists to free expression.

75. With reference to the situation in Nagorny Karabakh and the fate of Armenians in the region, he would like to know what measures had been envisaged to put an end to human rights violations and guarantee actual respect for the fundamental rights of the population. He also wondered about the sense of paragraph 28 (2) of the report, and whether it was to be taken to mean that the individual who did not fulfil his obligations would be deprived of his rights. Paragraph 30 of the report stated that political parties were prohibited from "the commission of other acts contrary to the constitutional system of the Azerbaijani Republic and incompatible with international legal obligations". He wondered about the justification for such a prohibition and the international legal obligations to which reference was made. Lastly, he asked the Azerbaijani delegation to indicate whether the provisions of the Covenant could be invoked in the country's courts.

76. Mr. EL SHAFEI thanked the Azerbaijani Government, through its delegation, for submitting an initial report to the Committee despite the difficulties the country had recently been facing. He recalled that the Committee always endeavoured, in considering the reports of States parties, to take into account the current context and each country's history.

77. Like other members of the Committee, he would have liked the report not to be restricted to a description of the existing legal framework but also to contain information on factors and difficulties hindering the implementation of the Covenant. Numerous cases of disappearances, torture and arbitrary arrest had been reported, both in Azerbaijan and in the neighbouring country involved in the hostilities, while the growing number of refugees had caused alarm in the General Assembly itself. The delegation might inform the Committee how the refugee situation stood, and also whether minorities on its territory were treated in accordance with the provisions of article 27 of the Covenant.

78. He asked the delegation to begin by indicating what impact the hostilities had had on the implementation of articles 6, 7, 9, 10, 14, 18, 21, 22, 25 and 27, which were the most important in view of the difficulties currently facing the Azerbaijani Republic. Secondly, he would like to be informed of reforms to the country's law following independence.

79. Mr. WENNERGREN said that, according to the report, the Azerbaijani Republic was fully informed about the content of each of the articles of the Covenant and the lack of description of the difficulties encountered in practice was no doubt due to the fact that it was an initial report.

80. Referring to paragraph 25 of the core document (HRI/CORE.1/Add.41/Rev.1), he said that he understood that the laws in question were those of the former Soviet Union, and he therefore wished to know whether reforms had been made to them, particularly with regard to the judicial appeal procedure described in paragraph 11 of the initial report, which seemed very similar to the inflexible procedure which had been applied under the former Soviet system.

81. With reference to paragraph 69 of the initial report, he asked how the interpretation system worked in practice and whether it was efficient. He also noted that the initial report contained no information on the penitentiary administration system, on conditions of detention and on the rehabilitation of detainees. The delegation could perhaps give details in that regard.

82. He also had questions about the implementation of article 11 of the Covenant in the Azerbaijani Republic. Referring to paragraph 61 of the report, he said that he would like details of the measures taken against a person who had failed to fulfil an obligation and what should be understood by the fact that he would be "materially liable only where he is at fault". Referring to the implementation of article 12 of the Covenant and to paragraph 62 (8) of the report, he asked the delegation to specify what it meant when a citizen could be refused a passport if he was "under administrative surveillance by the militia". Lastly he asked for information about the organization of the legislative elections and would like to know whether the authorities envisaged reorganizing Parliament, since that body seemed to be a direct legacy of the former Soviet regime and it would certainly be useful to ensure that its organization was more in keeping with the current national situation.

83. Mr. NDIAYE congratulated the Azerbaijani Government on having sent a full high-level delegation to the Committee's session particularly in view of the serious difficulties the country was experiencing. He noted with satisfaction that the report had been submitted within the required deadline and had been prepared in accordance with the Committee's guidelines.

84. Generally speaking, he associated himself with the questions raised by members of the Committee, particularly by Mrs. Evatt and Mr. Pocar. Concerning the Azerbaijani judicial system, he noted that, according to paragraph 20 of the core document, the courts were required "in administrating justice to defend against any infringement of the social order and political and economic systems laid down in the Constitution of the Azerbaijani Republic". In his opinion, such a mission was somewhat excessive compared with the responsibilities which traditionally devolved on the courts. The delegation could perhaps give some details on the subject. According to paragraph 21 of the report, everything the courts did was intended "to inculcate in citizens strict and unswerving compliance with the Constitution", which also seemed excessive; however, if that was the responsibility of the courts, it might be asked whether they had the necessary means to perform such a task. He would like to know how the principle of an independent judicial system, as set out in paragraph 22 of the core document, was guaranteed in practice and, for example, whether the rule of the irremovability of magistrates applied to judges. In order to have an overall picture of the judicial system in Azerbaijan, he would like details on the composition, the operation and the powers of the military courts. That was a very important question, particularly if they were in fact special courts. The report gave no information on the training of magistrates, and he would like the delegation to give the Committee some information on the subject.

85. The Azerbaijani delegation could also inform the Committee what impact the huge decline in purchasing power had had on the lives of the population

and particularly on the implementation of the various articles of the Covenant. With regard to expenses relating to the preparation of elections, which, according to paragraph 136 of the initial report, were covered by the competent electoral commission out of a single fund established for the account of the State, enterprises and public and other organizations, he would like to know what the preparation of the elections comprised, whether it was solely a matter of materially assisting candidates in their campaigns or whether the expenditures committed were more substantial - something which was liable to create difficulties in view of the country's current situation. Lastly, he asked the delegation to specify why the eligibility age had been set at 21 years, which did not seem to him to guarantee the proper conduct of public affairs.

86. The CHAIRMAN said that the Azerbaijani delegation would reply to the questions raised by the members of the Committee at a subsequent meeting.

The meeting rose at 6.05 p.m.